

# VA improperly spent \$6 billion on care, official says

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The Department of Veterans Affairs has been spending at least \$6 billion a year in violation of federal contracting rules to pay for medical care and supplies, wasting taxpayer money and putting veterans at risk, according to an internal memo written by the agency's senior official for procurement.

In a 35-page document addressed to VA Secretary Robert McDonald, the official accuses other agency leaders of "gross mismanagement" and making a "mockery" of federal acquisition laws that require competitive bidding and proper contracts.

Jan Frye, deputy assistant secretary for acquisition and logistics, describes a culture of "lawlessness and chaos" at the Veterans Health Administration, the massive health-care system for 8.7 million veterans.

## UPDATE |

"Doors are swung wide open for fraud, waste and abuse," he writes in the March memo, which was obtained by The Washington Post. He adds, "I can state without reservation that VA has and continues to waste millions of dollars by paying excessive prices for goods and services due to breaches of Federal laws."

Frye describes in detail a series of practices that he says run afoul of federal rules, including the widespread use of purchase cards, which are usually meant as a convenience for minor purchases of up to \$3,000, to buy billions of dollars worth of medical supplies without contracts. In one example, he says that up to \$1.2 billion in prosthetics were bought using purchase cards without contracts during an 18-month period that ended last year.

He also explains how VA has failed to engage in competitive bidding or sign contracts with outside hospital and healthcare providers that offer medical care for veterans that the agency cannot provide, such as specialized tests and surgeries and other procedures. Frye says VA has paid at least \$5 billion in such fees, in violation of federal rules that the agency's own general counsel has said since 2009 must be followed.

Frye alleges further violations in the agency's purchase of billions of dollars worth of prosthetics and in the acquisition of a wide range of daily medical and surgical supplies. He says many products are bought without the competitive bidding and contracts essential to ensure quality care, effective use of tight dollars and proper government oversight.

"These unlawful acts may potentially result in serious harm or death to America's veterans," Frye wrote. "Collectively, I believe they serve to decay the entire VA healthcare system."

VA spokeswoman Victoria Dillon said in a statement that some of the care the agency pays for is not covered by federal acquisition law. She also said that the agency is trying to manage rapid growth in medical care administered by outside providers, with authorizations for outside medical care jumping 46 percent in the first four months of 2015 over the same period last year.

Dillon said VA officials are urging Congress to pass legislation that would allow an "expedited form of purchasing care" for veterans who need to go outside the VA system. She said the bill "would also resolve legal uncertainties that have arisen" regarding the use of purchasing agreements other than those required by federal acquisition regulations.

VA has been under intense pressure to provide adequate care to the surge of veterans returning from the wars in Iraq and Afghanistan, but Frye makes clear in his memo that the agency's violations of purchasing law have been going on for years and that senior leaders have had many opportunities to revamp their practices.

He discloses his repeated efforts to raise his concerns with other senior officials at the agency but says he was consistently ignored. He also accuses top agency officials of deceiving Congress when they were asked about questionable practices.

VA operates one of the largest healthcare systems in the country, spanning 150 hospitals and more than 800 outpatient clinics. The agency has been struggling to serve not only the veterans returning from Iraq and Afghanistan, but also a surge in veterans who served in the 1960s and 1970s.

VA has been rocked since last year by revelations about long wait times for veterans seeking treatment for health issues including cancer and post-traumatic stress disorder. McDonald's predecessor, Eric Shinseki, resigned as VA secretary last year after a coverup of monthslong hospital wait times became public, and Congress has given the system \$10 billion in new funding to ramp up private medical care.

On Thursday, Frye will have a chance to explain his concerns directly to lawmakers. He is scheduled to testify before the House Veterans' Affairs Committee about waste and fraud in the purchase card program.

Frye, 64, is a retired Army colonel who has overseen VA's acquisitions and logistics programs — one of the federal government's largest — since 2005. In his role as the agency's senior procurement executive, he is responsible for developing and supervising VA's practices for acquiring services and supplies, but he is not in charge of making the purchases. A former Army inspector general, he has held senior acquisition positions over 30 years in government.

Some of his concerns were previously flagged by VA's inspector general, who has reported for years that weak contracting systems put the agency at risk of waste and abuse. Thousands of pharmaceutical purchases were made without competition or contracts in fiscal 2012 and 2013, often by unqualified employees, investigators found. And according to documents that have not been made public, the inspector general's office has warned VA repeatedly that its use of purchase cards needs better oversight.

For the most part, Frye does not explain why the rules are so widely flouted. But he suggests, in this discussion of purchase cards, that the reason may be laziness. He calls these payments an "easy button" way of buying things. Frye told McDonald he became aware in 2012 that government purchase cards were being used improperly by VA. About 2,000 cards had been issued to employees who were ordering products and services without contracts, Frye recounts.

He said his concerns grew after learning that a supervisor in New York had recorded more than \$50 million in prosthetics purchases in increments of \$24,999 — \$1 under the charging limit on each card. In a response to a member of Congress who inquired about the purchases, Shinseki had few answers. "No contract files exist" and "there is no evidence of full and open competition," Shinseki wrote in the letter, a

copy of which was obtained by The Post.

Purchase cards, Frye says in his memo, can be a sufficient means of acquiring goods and services for "micro-purchases" up to \$3,000. Above that limit, the cards can be used for payment only if there is a certified invoice linked to a properly awarded contract.

Frye's concerns about payments for outside medical services are rooted in the reality that VA hospitals do not have the resources or specialists to provide all the treatment veterans require, such as obstetrics and joint replacements. For these services, VA normally refers veterans to a list of doctors or labs in their area.

The agency, Frye says, is required to identify providers through a competitive process and contract with them to ensure that the government pays reasonable prices and gets the best value and quality. And contracts help ensure veterans are legally protected if they get poor care or if a medical procedure goes wrong.

But according to Frye's account, VA spent about \$5 billion on outside medical care in both 2013 and 2014 in the absence of contracts, and such practices "extend back many years."

"Based on my inquiry in January 2013, (the Office of the General Counsel) confirmed in writing the fact VHA was violating the law," Frye says.

Large medical systems similar to VA order many supplies in bulk through a list of approved vendors, identified through a competitive process, to ensure quick delivery for the best price. But VA's system for these "just-in-time" purchases is deeply flawed, and this is yet another way that the agency wastes money, Frye says.

He writes that there are many types of supplies that are not covered by these arrangements. Instead, they are ordered off the shelf, without competition and for higher prices, from a "shopping list" containing 400,000 items, "indiscriminately and not in accordance" with acquisition laws.

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